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AB-2847 Firearms: unsafe handguns. (2019-2020)

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Assembly Bill No. 2847

CHAPTER 292

An act to amend Section 31910 of the Penal Code, relating to firearms.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2847, Chiu. Firearms: unsafe handguns.

Existing law, subject to exceptions, generally makes it an offense to manufacture or sell an unsafe handgun, as defined, and requires the Department of Justice to compile a roster listing all of the handguns that have been tested and determined not to be unsafe handguns. Existing law establishes criteria for determining if a handgun is an unsafe handgun, including, for firearms manufactured after a certain date and not already listed on the roster, the lack of a chamber load indicator, magazine disconnect mechanism, and technology that transfers a microscopic array of characters from the firearm to the cartridge case when the firearm is fired, known as a microstamp. Existing law requires the microstamp to be transferred to the cartridge upon firing and to be imprinted in 2 or more places on the internal working parts of the handgun.

This bill, effective July 1, 2022, would revise the criteria for unsafe handguns by requiring the microstamp to be imprinted in one place on the interior of the handgun, and would require the department, for every new firearm added to the roster, to remove, as specified, 3 firearms from the roster that are not compliant with current requirements. By expanding the number of firearms the sale or manufacture of which would be a crime, this bill would impose a state-mandated local program.

The bill would authorize the department to adopt emergency regulations, as specified, to implement the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Unsafe Handgun Act is an essential consumer and public safety measure that was designed to ensure that handguns sold and manufactured in this state function properly and come equipped with lifesaving features that protect lawful users and aid law enforcement in identifying individuals who have criminally misused firearms to endanger the public.

(b) Data from the federal Centers for Disease Control and Prevention's (CDC) Fatal Injury Reports indicate that California's rate of unintentional shooting deaths has fallen substantially since the Unsafe Handgun Act's initial provisions went into effect in 2001. In the preceding five years, between 1996–2000, nearly 400 Californians died as a result of unintentional shooting injuries. By 2014–18, the most recent five years of data available from the CDC, the rate of unintentional shooting deaths in California had fallen by two-thirds.

(c) Among the Unsafe Handgun Act's critical safety standards is the requirement that a new semiautomatic pistol model includes a chamber load indicator and magazine disconnect mechanism. These features alert a person handling a handgun that the weapon is loaded and ensure a handgun cannot fire a chambered cartridge if the magazine has been removed. Researchers have determined that these features are capable of saving many lives by preventing unintentional shootings.

(d) Another standard that is critical for public safety is the Unsafe Handgun Act's requirement that a new semiautomatic pistol model includes a mechanism to imprint a unique microscopic array of characters onto the casing of each round fired by the weapon, that can be used to identify the weapon's make, model, and serial number and assist law enforcement in identifying those who have criminally used firearms to endanger the public.

(e) Recent research indicates that across the nation, large numbers of shootings are never reported to law enforcement, and large numbers of fatal and nonfatal shootings go unsolved and undeterred. An in-depth investigation by The Washington Post found that across 52 of the nation's largest cities, 53 percent of murders of African Americans never led to an arrest, let alone a conviction. Other investigative reports have indicated that homicides and attempted homicides involving firearms may be even less likely to lead to an arrest. Research reported by The Trace found that across 22 cities, 65 percent of fatal shootings involving an African American or Hispanic victim never led to an arrest. In California, the Department of Justice reported that from 2007–16, an average of 39 percent of homicides went unsolved annually. When shootings, homicides, and other firearm crimes are unsolved and undeterred, retaliatory cycles of violence, trauma, and vigilantism are more likely to erupt instead, leading to increased interpersonal gun violence and injury, and weakened trust in the justice system.

(f) Incorporating a chamber load indicator and magazine disconnect mechanism in more handgun models sold in California would likely reduce unintentional firearm deaths and injuries in this state, and help encourage the development and sale of handguns incorporating these basic product safety features nationally.

(g) Incorporating microstamping features in more handgun models sold in California would likely reduce interpersonal gun violence in this state by aiding law enforcement efforts to solve and deter shootings, homicides, and other gun-related crimes, and prevent cycles of retributive violence from occurring.

(h) Unfortunately, firearm manufacturers claim it is impossible or impractical to implement the safe Unsafe Handgun Act. The Legislature rejects these claims for reasons including the following:

(1) Microstamping is feasible and reliable, as has been shown during live demonstrations at the California Highway Patrol testing range in Sacramento and the Los Angeles Police Academy, where legible microstamped characters were visible on all cartridges tested.

(2) Implementation costs are minimal: between \$1.50 and \$5.00 per firearm.

(3) The Sporting Arms and Ammunition Manufacturers' Institute concedes that "microstamped characters that identify the make, model, and serial number of a semi-automatic pistol can be etched or imprinted on the tip of the pistol's firing pin" and tests have shown it is feasible to do the same on the firearm breechface.

(i) The Legislature continues to believe that the requirements of the Unsafe Handgun Act serve consumer and public safety and are feasible and necessary. To further implement this lifesaving law, the Legislature has considered and adopted the amendments contained in this act, including a provision to require that new semiautomatic pistol models have microstamped characters on one location on the interior surface or internal working parts of the pistol instead of two. The Sporting Arms and Ammunition Manufacturers' Institute concedes this can be done on the pistol's firing pin, and tests have shown that such imprints allow for successful identification of microstamped characters in 97 percent of cases.

(j) The Legislature adopts these and the other provisions in this Act in order to better implement the goals of the Unsafe Handgun Act, ensure that firearm manufacturers responsibly incorporate lifesaving features into more handguns sold in California, expedite the manufacture and sale of new semiautomatic pistol models equipped with microstamping features to help solve more firearm crimes and prevent cycles of interpersonal gun violence, and continue to protect Californians from interpersonal shootings, gun crimes, and unintentional shooting death and injury.

SEC. 2. Section 31910 of the Penal Code is amended to read:

31910. As used in this part, "unsafe handgun" means any pistol, revolver, or other firearm capable of being concealed upon the person, for which any of the following is true:

(a) For a revolver:

(1) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(b) For a pistol:

(1) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.

(2) It does not meet the firing requirement for handguns.

(3) It does not meet the drop safety requirement for handguns.

(4) Commencing July 1, 2022, for all centerfire semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it does not have a chamber load indicator.

(5) Commencing July 1, 2022, for all centerfire or rimfire semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it does not have a magazine disconnect mechanism if it has a detachable magazine.

(6) (A) Commencing July 1, 2022, for all semiautomatic pistols that are not already listed on the roster pursuant to Section 32015, it is not designed and equipped with a microscopic array of characters used to identify the make, model, and serial number of the pistol, etched or otherwise imprinted in one or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired.

(B) The Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in this paragraph, to be thereafter required as otherwise set forth by this paragraph where the Attorney General certifies that this new method is also unencumbered by any patent restrictions. Approval by the Attorney General shall include notice of that fact via regulations adopted by the Attorney General for purposes of implementing that method for purposes of this paragraph.

(C) The microscopic array of characters required by this section shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, within the meaning of Sections 23900 and 23920.

(7) The Department of Justice shall, for each semiautomatic pistol newly added to the roster pursuant to Section 32015, remove from the roster exactly three semiautomatic pistols lacking one or more of the applicable features described in paragraphs (4), (5), and (6) of subdivision (b) and added to the roster before July 1, 2022. Notwithstanding those paragraphs, each semiautomatic pistol removed from the roster pursuant to this subdivision shall be considered an unsafe handgun. The Attorney General shall remove semiautomatic pistols from the roster pursuant to this subdivision in reverse order of their dates of addition to the roster, beginning with the semiautomatic pistol added to the roster on the earliest date and continuing until each semiautomatic pistol on the roster includes each of the applicable features described in those paragraphs.

SEC. 3. (a) The Department of Justice may adopt emergency regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement this act. The initial adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Emergency regulations adopted pursuant to this section shall be effective only until July 1, 2022, or until the adoption of regulations by the Attorney General through the regular rulemaking process, whichever comes first.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.